

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sebastian Saavedra	Team: Squad #1	CCRB Case #: 201908151	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/15/2019 1:39 PM	Location of Incident: Willis Avenue and East 135th Street	Precinct: 40	18 Mo. SOL 3/15/2021	EO SOL 10/30/2021	
Date/Time CV Reported Sun, 09/15/2019 4:00 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 09/15/2019 4:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Mayky Santos	02317	944982	040 PCT
2. LT Juan Terrero	00000	939568	040 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jeffrey Molina	05672	956940	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Juan Terrero	Abuse: Lieutenant Juan Terrero refused to provide his name to § 87(2)(b)	
B.LT Juan Terrero	Abuse: Lieutenant Juan Terrero threatened to arrest § 87(2)(b)	
C.SGT Mayky Santos	Abuse: Sergeant Mayky Santos threatened to arrest § 87(2)(b)	
D.SGT Mayky Santos	Abuse: Sergeant Mayky Santos refused to provide his shield number to § 87(2)(b)	

### Case Summary

On September 15, 2019, § 87(2)(b) filed this complaint with the CCRB via its online website.

On September 15, 2019, in the vicinity of Willis Avenue and East 135<sup>th</sup> Street in the Bronx, § 87(2)(b) approached Lieutenant Juan Terrero, and Sergeant Mayky Santos, both assigned to the 40<sup>th</sup> Precinct, while they sat in a parked vehicle. § 87(2)(b) asked Lt. Terrero for his name, and he did not reply (**Allegation A: Abuse of Authority-** § 87(2)(g) Lt. Terrero told § 87(2)(b) that if he continued talking to the officers, he would be arrested for police harassment (**Allegation B: Abuse of Authority-** § 87(2)(g) Sgt. Santos exited the vehicle and told § 87(2)(b) that if he did not step off the street and onto the sidewalk, he would be arrested (**Allegation C: Abuse of Authority-** § 87(2)(g) § 87(2)(b) asked Sgt. Santos for shield number, and he did not provide it (**Allegation D: Abuse of Authority-** § 87(2)(g) § 87(2)(b)

Body-worn camera footage was obtained from Sgt. Santos for this case and captures part of the incident. Cell phone footage was provided by § 87(2)(b) and also captures part of the incident (Board Reviews 01 and 03). § 87(2)(g)

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Lieutenant Juan Terrero refused to provide his name to § 87(2)(b)**

**Allegation (B) Abuse of Authority: Lieutenant Juan Terrero threatened to arrest § 87(2)(b)**

It is undisputed that Lt. Terrero did not provide his name upon request and subsequently threatened to arrest § 87(2)(b)

§ 87(2)(b) testified that he approached Lt. Terrero and asked why he was parked in a bicycle lane, and if he could move his car. He asked Lt. Terrero for his shield number, to which Lt. Terrero replied that he did not have one. Lt. Terrero then told § 87(2)(b) that if he continued speaking to him, he could be arrested for police harassment. While § 87(2)(b) did not originally allege that he asked Lt. Terrero for his name, cell phone footage provided by § 87(2)(b) shows him doing so at approximately the same time that Lt. Terrero told him he could be arrested (Board Reviews 02 and 03).

Cell phone footage taken by § 87(2)(b) shows him saying “hello” or “sir” 12 times in rapid succession to Lt. Terrero. § 87(2)(b) approaches the front passenger side door of the car, where Lt. Terrero is seated with the window open, and asks him for his badge number. § 87(2)(b) then says “hello” and “sir” again approximately four more times while he is standing at about an arm’s length from Lt. Terrero, to which Lt. Terrero replies that he does not have one. § 87(2)(b) then asks him for his name twice and for his rank and precinct. As he does so, Lt. Terrero is speaking at the same time (at the 00:30 second mark on the video player), and tells § 87(2)(b) that he is harassing him and the officers, and that they could place him under arrest for harassing a police officer. Lt. Terrero then tells § 87(2)(b) to return to the sidewalk as he is standing on the street. § 87(2)(b) does so after multiple requests and tells Lt. Terrero that he will remain there until the officers move their cars from that location (Board Review 03).

Lt. Terrero stated that, after speaking to PO Jeffrey Molina and Sgt. Santos for approximately 10 minutes, § 87(2)(b) approached Lt. Terrero while the latter was in his parked vehicle. § 87(2)(b) asked Lt. Terrero why the officers were parked at that location, and Lt. Terrero explained to him that it was due to a detail they were assigned to. § 87(2)(b) asked Lt. Terrero for his shield number, and Lt. Terrero explained that he did not have one due to his rank. § 87(2)(b) continued asking for his shield number. Lt. Terrero did not recall § 87(2)(b) asking him for his name. Upon being shown cell phone footage in which § 87(2)(b) asked for his name, Lt. Terrero acknowledged observing this in the footage, but did not recall hearing it at the

time, and stated that § 87(2)(b) was asking several questions at the time. § 87(2)(b) then approached within a foot of Lt. Terrero, which Lt. Terrero considered his “zone of safety.” Lt. Terrero asked § 87(2)(b) to step back several times, and § 87(2)(b) refused. § 87(2)(b)s proximity, refusal to comply with repeated requests to step back, as well as his elevated tone of voice, made Lt. Terrero fearful that § 87(2)(b) was going to physically harm him, and he told § 87(2)(b) that if he harassed police officers, he would be arrested (Board Review 04).

Sgt. Santos testified that § 87(2)(b) approached him and Lt. Terrero while they were sitting in a parked vehicle and spoke to them, though he did not recall what the conversation was about. Sgt. Santos did not recall whether § 87(2)(b) asked Lt. Terrero for his name. He stated that, besides walking onto vehicular traffic, § 87(2)(b) was not committing any other infraction at the time (Board Review 05).

Officers are required to state their name to any member of the public who requests it NYPD Patrol Guide Section 203-09 (Board Review 06).

A person is guilty of harassment in the first degree when he intentionally and repeatedly harasses another person by following such person in or about a public place or places or by engaging in a course of conduct or by repeatedly committing acts which places that person in reasonable fear of physical injury, NY Penal Law Section 240.25 (Board Review 07).

A person is guilty of harassment in the second degree when, with intent to harass, annoy, or alarm another person, 1) he strikes, shoves, kicks or otherwise subjects another person to physical contact, or attempts or threatens to do so; or 2) he follows a person in or about a public place; or 3) he engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy another person and which serve no legitimate purpose, NY Penal Law Section 240.26 (Board Review 12).

§ 87(2)(g)

Cell phone footage shows § 87(2)(b) approach the passenger’s side window of the police car, and stand approximately an arm’s length from Lt. Terrero, asking him several questions. Lt. Terrero can be heard telling § 87(2)(b) that he is harassing him and could be placed under arrest. Lt. Terrero testified that, at this time, he became fearful that § 87(2)(b) would physically harm him because of his proximity and elevated tone of voice. § 87(2)(g)

While § 87(2)(b) stood approximately an arm’s length away from Lt. Terrero, cell phone footage shows that § 87(2)(b) remained in a stationary position, outside the closed door of the vehicle, with his arm outstretched and holding his cell phone. § 87(2)(g)

Per the video, he did not look up at § 87(2)(b) for the first eight seconds that § 87(2)(b) stood right next to his window and only does so slowly. He makes no request or order for § 87(2)(b) to step back until after he has already threatened to arrest him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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**Allegation (C) Abuse of Authority: Sergeant Mayky Santos threatened to arrest § 87(2)(b)**

**Allegation (D) Abuse of Authority: Sergeant Mayky Santos refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) testified that, after his initial interaction with Lt. Terrero, Sgt. Santos exited the car, and told § 87(2)(b) that he was illegally standing on the street since the pedestrian crossing light was red. Sgt. Santos told § 87(2)(b) that if he did not get off the street, he would arrest him. § 87(2)(b) did not originally state that he asked Sgt. Santos for his name or shield number, but can be seen doing so in cell phone footage that he provided (Board Review 02 and 08).

Sgt. Santos testified that, upon exiting the vehicle, he told § 87(2)(b) that he needed to get back on the sidewalk because he was concerned for § 87(2)(b)'s safety. § 87(2)(b) stepped back onto the sidewalk. § 87(2)(b) then asked Sgt. Santos for his name, and he provided it (Board Review 05).

Lt. Terrero recalled Sgt. Santos exiting the vehicle to speak to § 87(2)(b) but did not hear any of the conversation as he remained inside the vehicle (Board Review 04).

Cell phone footage provided by § 87(2)(b) shows him standing on a tan/light colored area on the road. Sgt. Santos exits his vehicle, and tell § 87(2)(b) that the traffic light is green and he should not be standing there. At the 0:23 timestamp, Sgt. Santos orders § 87(2)(b) to get back on the sidewalk. § 87(2)(b) does so. Sgt. Santos does not threaten to arrest him. At the 0:33 video player timestamp, § 87(2)(b) asks Sgt. Santos for his badge number, Sgt. Santos tells § 87(2)(b) his name and points to his badge. § 87(2)(b) tells Sgt. Santos he is too far away to see it, and Sgt. Santos replies that he can record it. The badge is not visible in the recording from the distance § 87(2)(b) was standing when he made this request (Board Review 08).

BWC footage from Sgt. Santos shows Sgt. Santos exit his vehicle, and ask § 87(2)(b) what he needs. § 87(2)(b) is standing on a tan/light gray area painted on the road, and replies that he wants to know why the officers are parked where they are. At the 00:45 timestamp in the video player, Sgt. Santos tells § 87(2)(b) that the traffic light at the intersection is green, and orders him to stand on the sidewalk, which § 87(2)(b) does. Sgt. Santos does not threaten to arrest him. At the 00:54 timestamp, § 87(2)(b) asks Sgt. Santos what his shield number is, and Sgt. Santos replies by telling § 87(2)(b) his name. § 87(2)(b) tells Sgt. Santos that he cannot see it, and Sgt. Santos tells him to walk away from him and that he can record it. Sgt. Santos does not provide his shield number (Board Review 01).

Officers are required to state their name and/or shield number to any member of the public who requests it. An officer shall provide such information verbally and allow enough time to for the person to record it, NYPD Patrol Guide Section 203-09 (Board Review 06).

§ 87(2)(g)

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to five CCRB complaints and has been named as a victim in nine allegations (Board Review 09).

§ 87(2)(b)

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§ 87(2)(b)

- Sgt. Santos has been a member of service for 12 years and has been a subject in eight CCRB complaints and 15 allegations, none of which were substantiated. § 87(2)(g)

- Lt. Terrero has been a member of service for 14 years and this is the first CCRB complaint to which he has been a subject.

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- As of April 29, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 11).

Squad No.: 1

Investigator: Inv. Sebastian Saavedra  
Signature

Print Title & Name

10/21/2020  
Date

Squad Leader: Mgr. Joy Almeyda  
Signature

Print Title & Name

10.22.20  
Date

Reviewer: \_\_\_\_\_  
Signature

Print Title & Name

\_\_\_\_\_  
Date